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EXAMINER

VIG, NARESH

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/678,902

Applicant(s)

MODEST, DAVID M.

Examiner

Naresh Vig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 22-24 and 35-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-21 and 25-34 is/are rejected.
- 7) ☒ Claim(s) 32-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is in reference to the response received on 07 July 2003 to the office action mailed on 06 February 2003. Amendment to claims 1, 12, 13, 18, 29 and 30 is acknowledged and considered. Cancellation of claims 5 – 7, 22 – 24 and 35 – 45 is acknowledged. There are 28 claims, claims 1 – 4, 8 – 21, and 25 – 34 pending for examination.

Response to Arguments

In response to applicant's argument that Marshall discloses a visual representation of geographically-dispersed companies across various sectors for comparing company performance, that representation does not also provide a simultaneous visual representation of sector performance or index performance (where an index includes companies from various sectors) for comparing the performance of different sectors or indexes. Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is a business choice to elect what information should be displayed. For example, a business may elect to display the index value by using its representing financial instrument indicator. For example, Datek discloses to display index values for DJIA, NASDAQ and S&P 500

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whereas, SmartMoney discloses to display index values for DJIA, NASDAQ, S&P 500, Russell 2000, DJTA, DJUA etc.

Claim Objections

Claim 32 is objected to because claim 32 recites "The method of claim 18...".

Claim 18 is a claim for system. Examiner reads claim 32 as "The system of claim 18 ..."

Appropriate correction is required.

Claim 33 is objected to because claim 33 recites "The method of claim 25...".

Claim 25 is a claim for system. Examiner reads claim 33 as "The system of claim 25 ..."

Appropriate correction is required.

Claim 34 is objected to because claim 34 recites "The method of claim 28...".

Claim 28 is a claim for system. Examiner reads claim 34 as "The system of claim 28 ..."

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 4, 8 – 21, and 25 – 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall US Patent 5,774,878 in view of SmartMoney.com hereinafter known as SmartMoney in further view of Datek Online supported by an article from PRNewsWire “Streamer Free Real-Time Stock Quote Service Registers 12,000 Users” hereinafter known as Datek.

Regarding claims 1 and 18, Marshall discloses system and method techniques to allow money managers and financial analysts to easily view otherwise unmanageable amounts of complex information and in particular, financial information about financial markets such as information about equities, commodities, currencies, derivatives and their related markets [col. 3, lines 40 – 45]. Further, the user is able to use the virtual reality world generated by the present invention to funnel information and trends from various sources into one object of the virtual reality world [col. 4, lines 1 – 4].

Marshall discloses displaying a map including geographic region [Fig. 3a].

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Marshall discloses to simultaneously display on the map visual indicators that represent financial instruments [Fig. 3a]. Marshall does not disclose indicators to represent status of financial indicators. PRN discloses that Datek Online began giving away Streamer to their customers on October 9, 1999. Streamer is the first free real-time streaming stock quote service made available by a brokerage firm to anyone with an Internet connection. Streamer allows investors to track bid, ask and last prices as well as percent change and other information for up to 40 stocks simultaneously. Investors also can set Streamer to alert them when stocks reach their price targets. Streamer has simple controls and is easy to operate. In addition, users can customize Streamer's colors, font size and other settings, including the ability to display quotes as decimals instead of fractions, to optimize their use. Official notice it taken that it is known to one of ordinary skill in the art at the time the invention was made that Streamer uses color indicators and uses color to inform users change in direction of prices for financial instrument, or uses line graph to display the status of the stock with the direction of graph going up or down to inform users change in direction of prices for financial instrument. SmartMoney discloses system and method to display status of financial indicators [pages 9 – 11]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to display status of financial instruments to help the user decide what course of direction to take in response to the market movement.

Regarding claims 2 and 19 Marshall discloses that an axis display parameter 48 allows the user to set the Z-axis (sometimes called the vertical axis) of the three dimensional virtual reality world. (The X-axis and and Y-axis are set as discussed below with reference to FIG. 11.) Generally, the three axes can represent any category of financial information. For example, one axis can be set to represent countries, a second axis can be set to represent industry groups and a third axis can be set to represent price changes. Alternatively, the user could set the first axis to define two stock markets, for example New York and Tokyo, the second axis to represent two types of stocks, for example utilities and financial, and the third axis to represent percentage change in value of the stock over any user defined time period (col. 11, lines 33 – 50).

Regarding claims 3 and 20, Marshall discloses that the virtual reality generator can dynamically display and continuously update the virtual reality world (abstract).

Regarding claims 4 and 21, Marshall discloses that the CAPRI analytic system allows a user to define areas of interest from large areas of financial information, and then create price and volume charts for any stock issue, including futures, stocks, indexes, currencies, bonds and commodities (col. 5, lines 9 – 13).

Regarding claims 8 – 11 and 25 – 28, Marshall discloses a color display parameter 44 may be set to indicate, for example, companies making a profit or a loss. Thus, a blue metaphor in the virtual reality world may represent a company making a profit and a red metaphor may represent a company making a loss. (The colors of the metaphors can be of various shadings, representing degrees of profit and loss.) A textures display parameter 46 allows the user to set identifying symbols for each object in the virtual reality world (col. 10, lines 29 – 59). Marshall does not disclose color associate with change in percentage. However, Marshall discloses that several incoming data streams can be the source of the financial information for one virtual reality world. As the financial data changes, the position, shape, color and texture of the metaphors in the virtual reality world also change (col. 6, lines 49 – 55). PRN discloses that Datek Online began giving away Streamer to their customers on October 9, 1999. Streamer is the first free real-time streaming stock quote service made available by a brokerage firm to anyone with an Internet connection. Streamer allows investors to track bid, ask and last prices as well as percent change and other information for up to 40 stocks simultaneously. Investors also can set Streamer to alert them when stocks reach their price targets. Streamer has simple controls and is easy to operate. In addition, users can customize Streamer's colors, font size and other settings, including the ability to display quotes as decimals instead of fractions, to optimize their use. Official notice it taken that it is known to one of ordinary skill in the art at the time the invention was made that Streamer uses color indicators and uses color to inform users change in direction of prices for financial instrument, or uses line graph to display the status of the

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stock with the direction of graph going up or down to inform users change in direction of prices for financial instrument. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use different color to identify directional changes in profit and loss to help the investor visually analyze the trend in price changes. Marshall discloses that the shapes, colors, positions, animations and textures of the metaphors can be selected by the user to represent different characteristics of the financial data (col. 6, 46 – 49).

Regarding claims 12 and 29, Marshall discloses map including second geographic region with indicators representing financial activity in that region, plurality of sectors including plurality of financial instruments.

Marshall discloses displaying a map including second geographic region [Fig. 3a]. Marshall discloses to simultaneously display on the map visual indicators that represent financial instruments [Fig. 3a]. Marshall does not disclose indicators to represent status of financial indicators. PRN discloses that Datek Online began giving away Streamer to their customers on October 9, 1999. Streamer is the first free real-time streaming stock quote service made available by a brokerage firm to anyone with an Internet connection. Streamer allows investors to track bid, ask and last prices as well as percent change and other information for up to 40 stocks simultaneously. Investors also can set Streamer to alert them when stocks reach their price targets. Streamer has simple controls and is easy to operate. In addition, users can customize

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Streamer's colors, font size and other settings, including the ability to display quotes as decimals instead of fractions, to optimize their use. Official notice it taken that it is known to one of ordinary skill in the art at the time the invention was made that Streamer uses color indicators and uses color to inform users change in direction of prices for financial instrument, or uses line graph to display the status of the stock with the direction of graph going up or down to inform users change in direction of prices for financial instrument. SmartMoney discloses system and method to display status of financial indicators [pages 9 – 11]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to display status of financial instruments to help the user decide what course of direction to take in response to the market movement.

Regarding claims 13 and 30, Marshall claim that its virtual reality generator of claim 14 wherein each one of the plurality of metaphors have shape, size, position, behavior and color to represent financial information concerning one of the plurality of stocks [claim 15]. Marshall does not disclose size of geographical region proportional in size. Official notice it taken that it is known to one of ordinary skill in the art at the time the invention was made that pie chart is a type of chart that businesses use to identify different instruments with their size of the pie (geographical map) proportional their value in the whole pie. SmartMoney discloses to use proportional sizes to identify financial instruments [pages 11, 14, 17]. Therefore, it would have been obvious to one

of ordinary skill in the art at the time the invention was made to display the information also indicating the size of the financial instrument in the whole portfolio of keep the user informed about the share (percentage) of the financial instrument in the whole portfolio.

Regarding claims 14 and 31, applicant discloses that economic data may include, by way of non-limiting example, the gross domestic product for a particular country, the country's population and the currency used in that country [page 7, lines 4 – 6]. Marshall discloses to allow money managers and financial analysts to easily view otherwise unmanageable amounts of complex information and in particular, financial information about financial markets such as information about equities, commodities, currencies, derivatives and their related markets. Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that is a business choice to select what information should be displayed on the reporting screen (geographical map). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to display currency used in the country on Fig. 3a of Marshall to help the user make the decision when there is a move in the currency price.

Regarding claims 15 – 17 and 32 – 34, Marshall does not disclose to use numbers as visual indicator. Both SmartMoney [page 3] and Datek [page 1] disclose

using number for visual indicator. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use number for visual indicator to display the actual value of the financial instrument.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is 703.305.3372. The examiner can normally be reached on M-F 7:30 - 5:00 (Alt Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.

22 September 2003
Naresh Vig



JOHN G. WEISS
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